

CLERK, U.S. DISTRICT COURT

11/19/2021

CENTRAL DISTRICT OF CALIFORNIA
BY: _____ AP _____ DEPUTY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

United States of America

CASE NUMBER

PLAINTIFF(S)

3:21-MJ-00217 5:21-mj-00690

V.

KEVIN ROBERT MCCARTY

DEFENDANT(S).

DECLARATION RE OUT-OF-DISTRICT WARRANT

The above-named defendant was charged by: 18 U.S.C. §§ 2251(a), 2, 18 U.S.C. § 2252A(a)(2), 18 U.S.C. § 2261A(2)(B), 18 U.S.C. § 2251(b)(1)
in the _____ District of Oregon _____ on 11/16/2021
at 10:45 ☐ a.m. / ☒ p.m. The offense was allegedly committed on or about _____
in violation of Title 18 U.S.C., Section(s) 2251(a),2
to wit: Sexual Exploitation of Children

A warrant for defendant's arrest was issued by: Hon. Jolie Russo, U.S. Magistrate Judge

Bond of \$ _____ was ☐ set / ☐ recommended.

Type of Bond:

Relevant document(s) on hand (attach): Criminal Complaint and Arrest Warrant

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11/18/21
Date

Signature of Agent

Ben Shelton

Print Name of Agent

Homeland Security Investigations
Agency

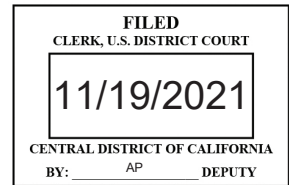
Special Agent
Title

Submit this form by e-mail to:

CrimIntakeCourtDocs-LA@cacd.uscourts.gov For Los Angeles criminal duty.

CrimIntakeCourtDocs-SA@cacd.uscourts.gov For Santa Ana criminal duty.

CrimIntakeCourtDocs-RS@cacd.uscourts.gov For Riverside criminal duty.



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

PLAINTIFF

V.

KEVIN ROBERT MCCARTY

USMS# 211300587

DEFENDANT

CASE NUMBER:

3:21-mj-00217

5:21-mj-00690

REPORT COMMENCING CRIMINAL
ACTION

TO: CLERK'S OFFICE, U.S. DISTRICT COURT

All areas must be completed. Any area not applicable or unknown should indicate "N/A".

1. The defendant was arrested in this district on 11/18/2021 @ 12:50 at ☐ AM ☒ PM
or

The defendant was arrested in the _____ District of _____ on _____ at ☐ AM ☐ PM

2. The above named defendant is currently hospitalized and cannot be transported to court for arraignment or any other preliminary proceeding: ☐ Yes ☒ No

3. Defendant is in U.S. Marshals Service lock-up (in this court building): ☐ Yes ☒ No

4. Charges under which defendant has been booked:

18 U.S.C. §§ 2251(a), 2, 18 U.S.C. § 2252A(a)(2), 18 U.S.C. § 2261A(2)(B), 18 U.S.C. § 2422(b), 18 U.S.C. § 2422

5. Offense charged is a: ☒ Felony ☐ Minor Offense ☐ Petty Offense ☐ Other Misdemeanor

6. Interpreter Required: ☒ No ☐ Yes Language: _____

7. Year of Birth: 1985

8. Defendant has retained counsel: ☒ No

☐ Yes Name: _____ Phone Number: _____

9. Name of Pretrial Services Officer notified: _____

10. Remarks (if any): _____

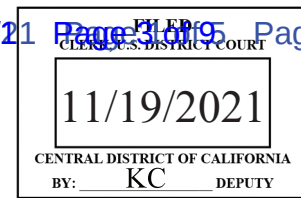
11. Name: Ben Shelton (please print)

12. Office Phone Number: 213 272 6370

13. Agency: HSI

14. Signature: 

15. Date: 11/18/2021



TRACY L. WILKISON
Acting United States Attorney
SCOTT M. GARRINGER
Assistant United States Attorney
Chief, Criminal Division
JERRY C. YANG
Assistant United States Attorney
Chief, Riverside Branch Office
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Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEVIN ROBERT McCARTY,
aka "Robbie MacKenzie",

Defendant.

Case No. 5:21-MJ-690

GOVERNMENT'S NOTICE OF REQUEST
FOR DETENTION

Plaintiff, United States of America, by and through its
counsel of record, hereby requests detention of defendant and gives
notice of the following material factors:

1. Temporary 10-day Detention Requested (§ 3142(d)) on the
following grounds:

a. present offense committed while defendant was on
release pending (felony trial), (sentencing),
(appeal), or on (probation) (parole); or

1 _____ b. defendant is an alien not lawfully admitted for
2 permanent residence; and

3 _____ c. defendant may flee; or

4 _____ d. pose a danger to another or the community.

5 X 2. Pretrial Detention Requested (§ 3142(e)) because no
6 condition or combination of conditions will reasonably
7 assure:

8 X a. the appearance of the defendant as required;

9 X b. safety of any other person and the community.

10 _____ 3. Detention Requested Pending Supervised Release/Probation
11 Revocation Hearing (Rules 32.1(a)(6), 46(d), and 18
12 U.S.C. § 3143(a)):

13 _____ a. defendant cannot establish by clear and convincing
14 evidence that he/she will not pose a danger to any
15 other person or to the community;

16 _____ b. defendant cannot establish by clear and convincing
17 evidence that he/she will not flee.

18 X 4. Presumptions Applicable to Pretrial Detention (18 U.S.C.
19 § 3142(e)):

20 _____ a. Title 21 or Maritime Drug Law Enforcement Act
21 ("MDLEA") (46 U.S.C. App. 1901 et seq.) offense with
22 10-year or greater maximum penalty (presumption of
23 danger to community and flight risk);

24 _____ b. offense under 18 U.S.C. §§ 924(c), 956(a), 2332b, or
25 2332b(g)(5)(B) with 10-year or greater maximum
26 penalty (presumption of danger to community and
27 flight risk);

1 X c. offense involving a minor victim under 18 U.S.C. §§
2 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251,
3 2251A, 2252(a)(1)-(a)(3), 2252A(a)(1)-2252A(a)(4),
4 2260, 2421, 2422, 2423 or 2425 (presumption of
5 danger to community and flight risk);

6 _____ d. defendant currently charged with an offense
7 described in paragraph 5a - 5e below, AND defendant
8 was previously convicted of an offense described in
9 paragraph 5a - 5e below (whether Federal or
10 State/local), AND that previous offense was
11 committed while defendant was on release pending
12 trial, AND the current offense was committed within
13 five years of conviction or release from prison on
14 the above-described previous conviction (presumption
15 of danger to community).

16 X 5. Government Is Entitled to Detention Hearing Under §
17 3142(f) If the Case Involves:

18 _____ a. a crime of violence (as defined in 18 U.S.C. §
19 3156(a)(4)) or Federal crime of terrorism (as
20 defined in 18 U.S.C. § 2332b(g)(5)(B)) for which
21 maximum sentence is 10 years' imprisonment or more;

22 _____ b. an offense for which maximum sentence is life
23 imprisonment or death;

24 _____ c. Title 21 or MDLEA offense for which maximum sentence
25 is 10 years' imprisonment or more;

1 ____ d. any felony if defendant has two or more convictions
2 for a crime set forth in a-c above or for an offense
3 under state or local law that would qualify under a,
4 b, or c if federal jurisdiction were present, or a
5 combination or such offenses;

6 X e. any felony not otherwise a crime of violence that
7 involves a minor victim or the possession or use of
8 a firearm or destructive device (as defined in 18
9 U.S.C. § 921), or any other dangerous weapon, or
10 involves a failure to register under 18 U.S.C. §
11 2250;

12 X f. serious risk defendant will flee;

13 ____ g. serious risk defendant will (obstruct or attempt to
14 obstruct justice) or (threaten, injure, or
15 intimidate prospective witness or juror, or attempt
16 to do so).

17 ____ 6. Government requests continuance of ____ days for
18 detention hearing under § 3142(f) and based upon the
19 following reason(s):

20 _____
21 _____
22 _____
23 _____

24 //

25 //

26 //

1 7. Good cause for continuance in excess of three days exists
2 in that:

3 _____
4 _____
5 _____
6 _____

8 Dated: November 19, 2021

Respectfully submitted,

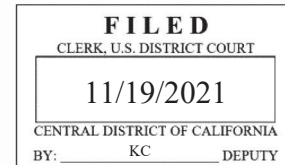
9 TRACY WILKINSON
10 Acting United States Attorney

11 JERRY YANG
12 Assistant United States Attorney
13 Chief, Riverside Branch Office

14 
15 _____
16 BYRON R. TUYAY
17 Assistant United States Attorney

18 Attorneys for Plaintiff
19 UNITED STATES OF AMERICA
20
21
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28

NAME & ADDRESS



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

PLAINTIFF,

v.

Kevin Robert McCarty

DEFENDANT(S).

CASE NUMBER

5:21-mj-690

CONSENT TO VIDEO/TELEPHONIC CONFERENCE
AND/OR WAIVER OF DEFENDANT'S PRESENCE

☐ AND PROPOSED FINDINGS/ORDER

Check each that applies:

☒ CONSENT TO VIDEO CONFERENCE/TELEPHONIC CONFERENCE ☐ WAIVER OF DEFENDANT'S PRESENCE

1. Consent to Video Conference/Telephonic Conference

I, Kevin Robert McCarty, understand that the U.S. Constitution, the Federal Rules of Criminal

Procedure, and/or one or more federal statutes may give me the right to have all the below-listed proceedings take place in person in open court. After consultation with counsel, I knowingly and voluntarily consent to the proceedings below instead taking place by video conference or, if video conference is not reasonably available, by telephonic conference:

Check each that applies:

- ☒ Detention/Bail Review/Reconsideration Hearing(s) (18 U.S.C. Sec. 3142) ☒ Initial Appearance (Fed. R. Crim. P. 5)
☐ Preliminary Hearing (Fed. R. Crim. P. 5.1) ☐ Arraignment (Fed. R. Crim. P. 10)
☐ Pretrial Release Revocation Proceedings (18 U.S.C. Sec. 3148) ☐ Waiver of Indictment (Fed. R. Crim. P. 7(b))
☐ Misdemeanor Pleas and Sentencings (Fed. R. Crim. P. 43(b)(2)) ☐ Appearances under Fed. R. Crim. P. 40
☐ Probation and Supervised Release Revocation Proceedings (Fed. R. Crim. P. 32.1)

Note: to consent to an appearance by video or telephonic conference at one of the two proceedings listed below, you must also complete the "Proposed Findings" section on page 2 of this form.

☐ Felony Pleas (Fed. R. Crim. P. 11) ☐ Felony Sentencings (Fed. R. Crim. P. 32)

2. Waiver of Defendant's Presence

I, _____, understand that the U.S. Constitution, the Federal Rules of Criminal Procedure, and/or one or more federal statutes may give me the right to be present at all of the below-listed proceedings - in person, by video conference, or by telephonic conference. After consultation with counsel, I knowingly and voluntarily waive my right to be present in person in open court or by video conference or by telephonic conference at the proceedings below:

Check each that applies (and use Form CR-35 to waive the defendant's presence at other types of proceedings):

- ☐ Detention/Bail Review/Reconsideration Hearing(s) (18 U.S.C. Sec. 3142) ☐ Waiver of Indictment (Fed. R. Crim. P. 7(b))
☐ Preliminary Hearing (Fed. R. Crim. P. 5.1) ☐ Appearances under Fed. R. Crim. P. 40
☐ Pretrial Release Revocation Proceedings (18 U.S.C. Sec. 3148)
☐ Misdemeanor Pleas and Sentencings (Fed. R. Crim. P. 43(b)(2))
☐ Probation and Supervised Release Revocation Proceedings (Fed. R. Crim. P. 32.1)

Date

11/19/21

Defendant

☒ Signed for Defendant by Counsel for Defendant with Defendant's Authorization [Check if applicable]

I have translated this consent/waiver to the Defendant in the _____ language.

Date


Interpreter (if required)

☐ Signed for Interpreter by Counsel for Defendant with
Interpreter's Authorization [Check if applicable]

I am counsel for the Defendant herein. Prior to the Defendant signing this document or authorizing me to sign this document on the Defendant's behalf, I fully advised the Defendant of the Defendant's above-referenced rights and consulted with the Defendant regarding such rights and the Defendant's consent/waiver(s). I believe that the Defendant understands such rights and that the Defendant's consent/waiver(s) are knowing and voluntary, and I concur with such consent/waiver(s).

11/19/21

Date



Counsel for Defendant

3. Proposed Findings Regarding Harm of Further Delay of Felony Plea or Sentencing

Pursuant to § 15002(b)(2) of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act and § 2 of Order of the Chief Judge No. 20-043 (In Re: Coronavirus Public Emergency Use of Video and Telephonic Conference in Certain Criminal Proceedings), felony pleas and sentencings cannot be conducted other than in person in open court unless the judge makes specific findings that the plea or sentencing "cannot be further delayed without serious harm to the interests of justice." Accordingly, if the defendant intends to consent to a felony plea or sentencing taking place by video conference or, if video conference is not reasonably available, by telephonic conference, instead of in person in open court, the defendant must set forth below proposed findings sufficient to make this showing.

4. Order Adopting Findings Regarding Harm of Further Delay of Felony Plea or Sentencing

Pursuant to § 15002(b)(2) of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act and § 2 of Order of the Chief Judge No. 20-043 (In Re: Coronavirus Public Emergency Use of Video and Telephonic Conference in Certain Criminal Proceedings), I hereby find that the:

☐ Felony Plea (Fed. R. Crim. P. 11)

☐ Felony Sentencing (Fed. R. Crim. P. 32)

in this case cannot be further delayed without serious harm to the interests of justice, for the reasons set forth above.

Date

United States District Judge